Defense Acquisition University

Ethics

Chapter 1

Learning Objectives

Terminal Objectives

Recognize the importance of ethical behavior in a contracting environment

Enabling Objectives

- **Describe ethical behaviors in a foreign contracting environment**
- **Identify ethical resources in a contingency environment**

Ethics

"I believe integrity in a contingency environment starts at home… If you don't have it when you get there, it is *too* late !!"

Charlie E. Williams Jr.
Former Deputy Assistant Secretary (Contracting)
Assistant Secretary (Acquisition)
Air Force

While no training could cover every possible ethical situation you may encounter as a CCO, your

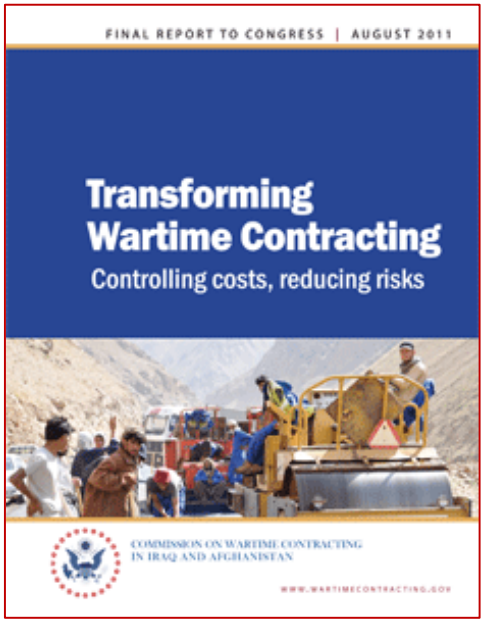
Service Core Values

will help.

Gansler Commission

- **Gansler Report Highlights**
  - Acquisition Failures
  - Need for More Trained/Experienced CCOs
  - Contracting Personnel
  - Organization and Responsib
  - Training and Tools
  - Lessons Learned
  - Need for Expeditionary Contracting Manual
  - Need for more General Officers in Contracting
  - Single Army Contracting Command

Commission on Wartime Contracting



Interim Reports

- **At What Cost? (2009)**
- **At What Risk? (2011)**

Learn. Perform. Succeed.

Final Report – August 2011

Contract Waste, Fraud, and Abuse take many forms:

- An ill-conceived project, no matter how well-managed, is wasteful if it does not fit the cultural, political, and economic norms of the society it is meant to serve, or if it cannot be supported and maintained.
- Poor planning and oversight by the U.S. government, as well as poor performance on the part of contractors, have costly outcomes: time and money misspent are not available for other purposes, missions are not achieved, and lives are lost.
- Criminal behavior and blatant corruption sap dollars from what could otherwise be successful project outcomes and, more disturbingly, contribute to a climate in

Ethical Violations

Gifts from Outside Sources

What does this rule mean in practical terms?

- **You may not *solicit* gifts from anyone, for any reason**
  - That means for yourself, for others, or the military
- **You may not *accept* gifts from "<u>prohibited sources</u>"**
  - A "prohibited source" is one who does, or seeks, ***DOD business*** or one who could be substantially affected by your official decisions – this includes private organizations and charities
- **You may not accept gifts given to you**

Fraud Indicators

- Unauthorized product substitution
- Errors in cost reporting
- Potential defective pricing
- Incorrect progress payment requests
- Weak discipline in charging of labor hours
- Use of erroneous overhead rates
- Frequent discovery of errors
- Bid rigging

Why is this Important to You?

- Number of contracts a CCO and CORs oversee has increased, commands must now devote additional personnel for oversight
  - Possibility of ethics violations
  - Invest in oversight
  - Ensure your personnel are trained

Ensuring Proper Oversight

- **Ensure CORs know their jobs**
- **Contingency environment is a fast paced environment**
  - Haste in contracting invites fraud, waste and abuse
- **Post-award oversight of contractors**
  - Designate top performers as CORs
  - Hold contractors accountable
  - Ensure we get what we paid for

What You Can Do as a Leader

- Heed the ethics rules
- Lead by example
- Encourage ethics awareness
- Stress compliance within your area of responsibility
- Encourage personnel to speak up when they believe ethics rules are being compromised/ignored
- Seek legal guidance early and often

Gifts and Bribes

In many cultures bribes, gratuities, exchanges of gifts, etc. are a common business practice

- **If confronted with this situation, you must:**
  - Explain vendor base the US military does not conduct business in this manner
  - Notify their management, if applicable
  - Write a memo for record documenting what transpired
- **Vendors May *Insist* You Accept a Gift, you must:**
  - Reiterate that this is not how the US military conducts business
  - Inform the contractor that the gift will in no way affect decisions
  - If a contractor is insistent and there is no diplomatic way to avoid accepting the gift, you should:
    - **Accept the gift on behalf of the US military**
    - **Again, notify vendor management/ownership**
    - **Consult with Legal**
    - **Turn the "gift" over to other authority, as directed by command, for safe keeping**

High Profile Violations

- **AF SSgt accepted $15,000 bribe in exchange for awarding a $373K contract for a cold-storage warehouse**
  - Sentenced to 3 months Confinement fined $500/month for 35 months, Reduced to E1
- **Army Officer shot and killed herself in Baghdad …suicide occurred a day after she admitted to Army investigator she had accepted at least $225,000 in bribes**
  - Estate's assets frozen by federal investigators

Portrait of a "Ring Leader"

Major Cockerham began accepting millions of dollars in bribes from contractors who had DoD contracts in Iraq and Kuwait that he either awarded to the contractors or administered himself. He then enlisted (recruiter) others…

$9.1M in Kickbacks

MAJ John Cockerham: Convicted

Maj Cockerham sentence:

- **17.5 years in prison**
- **$9.6M Restitution**

Other Offenders and Conspirators

- **MAJ Pressley, MAJ Momon, Hall (Contractor), and many of their siblings and family members**

Happens at All Levels

Darleen Druyun, former USAF Principal Deputy Under Secretary for Acquisition

Approved 2003 USAF tanker "lease/purchase" plan with Boeing

- KC 767 *purchase* price was $150M per plane
  - Lease/purchase amount $260M per plane
- Boeing gave jobs to Druyun's family
- offered/promised Druyun job as VP after she left Pentagon
- She plead guilty to inflating cost of tanker program and giving Boeing info on competing AirBus bid, as well as other transgressions
  - Found guilty
- Boeing CFO fired, CEO resigned; Boeing paid $615M fine

Elected Officials

Randy "Duke" Cunningham

- Decorated Navy Pilot
- Vietnam "Ace"
- Congressman
- Member of House Armed Services Committee
- Felon: Accepted $2.4M in bribes

Military Contracting Commanders

COL Richard Moran, Commander, USA Contracting Command, Korea

- **11-Count indictment for bid-rigging and bribery**
- **Awarded sole-source contract @ $5M per year, 10 Option Years**
  - **Later competed & awarded at $1M per year**
- **Demanded $500,000 for his services (was offered "Installment Plan")**
- **Spouse charged with money laundering and**

Credit Card Holders

- C.W. Godbolt, NSWC employee in MD, had Govt purchase card
- The Plan: sidekick submitted fraudulent invoices in the names of fictitious companies for purchases of electronic equipment
- Godbolt paid with purchase card; certified "valid & necessary"
- Supervisor noticed invoices, supposedly from different companies, all came from same fax number
- Godbolt found guilty of conspiracy to defraud U.S., false statements
  - Sentenced to 34 months in prison and made to repay $203,353.44

Available Resources

Multiple resources available to Contingency Contracting Officers

- Supervisor
- JAG
- Chief of the Contracting Office
- Chain of Command
- OSI, CID, NCIS, etc

Reporting Fraud, Waste & Abuse

- **Air Force Office of Special Investigations**

  http://www.osi.andrews.af.mil/library/factsheets/factsheet.asp?id=14

- **Army Criminal Investigation Command**

  http://www.cid.army.mil/reportacrime.html

- **Naval Criminal Investigative Service**

Reporting Fraud Waste & Abuse Con't

ttp://www.usace.army.mil/recovery/Pages/Report.asp

US Army Corps of Engineers
Headquarters
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Headquarters > Recovery Act > Report Waste, Fraud and Abuse

- Overview of the American Recovery and Reinvestment Act of 2009
- Implementing the American Recovery and Reinvestment Act of 2009
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- Report Waste, Fraud and Abuse

Report Waste, Fraud and Abuse

To report allegations of impropriety, issues of systems deficiency, complaints, grievances, and matters of concern or requests for assistance received from, or presented by, soldiers, family members, retirees, former soldiers, DA Civilians, or other individuals concerned with the activities:

Contact the Department of Defense Inspector General
Contact the U.S. Army Corps of Engineers Inspector General

Conclusion

"There is no kind of dishonesty into which good people more easily and frequently fall than that of defrauding the government."

-Benjamin Franklin

DON'T LET THIS BE YOU !!!

Practical Exercise

Ethics Exercise #1